CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 15, 2005

H.R. 3889
Combat Methamphetamine Epidemic Act of 2005

As ordered reported by the House Committee on the Judiciary on November 9, 2005

SUMMARY

H.R. 3889 would authorize appropriations totaling $545 million over the 2006-2010 period to fund several programs in the Department of Justice (DOJ) and the Department of State that aim to combat the abuse of methamphetamine. In addition, the bill would strengthen the regulation of pseudoephedrine, ephedrine, and phenylpropanolamine and would limit retail sales of products that contain those substances. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3889 would cost $377 million over the 2006-2010 period. Enacting the bill also could affect direct spending and revenues, but CBO estimates that any effects would not be significant for any year.

The bill would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting some state laws that regulate pharmaceutical sales. In addition, the bill would impose an intergovernmental mandate on some publicly owned pharmacies by requiring tighter controls for selling and storing over-the-counter drugs containing pseudoephedrine, ephedrine, or phenylpropanolamine. CBO estimates that the costs, if any, for states, localities, and publicly owned pharmacies to comply with those mandates would be insignificant and well below the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation).

H.R. 3889 also would impose private-sector mandates, as defined in UMRA, on retail businesses and persons involved in the sale and distribution of certain medications containing ephedrine, pseudoephedrine, or phenylpropanolamine. CBO estimates that the aggregate direct costs of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3889 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION[a]						
Spending Under Current Law for Programs Authorized by H.R. 3889						
Budget Authority [b]	53	0	0	0	0	0
Estimated Outlays	48	49	32	19	8	0
Proposed Changes:						
DOJ Programs						
Authorization Level	0	119	119	99	99	99
Estimated Outlays	0	26	62	81	93	105
Department of State Programs						
Authorization Level	0	5	5	0	0	0
Estimated Outlays	0	3	4	2	1	0
Total Changes						
Authorization Level	0	124	124	99	99	99
Estimated Outlays	0	29	66	83	94	105
Spending Under H.R. 3889						
Authorization Level [a]	53	124	124	99	99	99
Estimated Outlays	48	78	98	102	102	105

a. In addition to the amounts shown above, enacting H.R. 3889 also could affect direct spending and revenues, but CBO estimates that any effects would not be significant in any year.

b. The 2005 level is the amount appropriated for that year for the programs authorized by H.R. 3889. A full-year appropriation for fiscal year 2006 has not yet been enacted.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted by the end of calendar year 2005. CBO estimates that implementing H.R. 3889 would cost $377 million over the 2006-2010 period, assuming appropriation of the authorized amounts. Enacting the bill could affect

direct spending and receipts, but we estimate that any effects would not be significant in any year.

Spending Subject to Appropriation

For this estimate, CBO assumes that the amounts authorized by the bill for the programs listed below will be appropriated near the start of each fiscal year and that spending will follow the historical spending patterns for those or similar activities.

For DOJ, the bill would authorize the appropriation of:

- $99 million for each of fiscal years 2006 through 2010 for grants to states for programs to reduce the manufacture, sale, and use of methamphetamine; and

- $20 million for each of fiscal years 2006 and 2007 for grants for programs to assist children endangered by abuse of methamphetamine.

For the Department of State, H.R. 3889 would authorize the appropriation of:

- $4 million for each of fiscal years 2006 and 2007 to prevent the smuggling of methamphetamine from Mexico to the United States; and

- $1 million for each of fiscal years 2006 and 2007 for analysis of and reports on countries that export and import the most pseudoephedrine, ephedrine, and phenylpropanolamine and the cost of developing a plan to prevent the diversion of those chemicals to illegal uses.

In addition, H.R. 3889 would strengthen the regulation of pseudoephedrine, ephedrine, and phenylpropanolamine and would limit retail sales of products that contain those substances. CBO estimates that any resulting increase in administrative or investigative costs for the Drug Enforcement Administration (DEA) would not be significant.

Direct Spending and Revenues

Enacting H.R. 3889 could increase collections of civil and criminal fines for violations of the bill's provisions relating to methamphetamine production and trafficking as well as those regarding the importation of precursor chemicals. CBO estimates that any additional collections would not be significant because of the relatively small number of additional cases likely to be affected. Civil fines are recorded as revenues. Criminal fines are recorded

as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3889 would impose an intergovernmental mandate, as defined in UMRA, by preempting state laws that place less-burdensome requirements than those established in this bill on pharmaceutical dispensers for selling and storing over-the-counter drugs containing pseudoephedrine, ephedrine, or phenylpropanolamine. In addition, the bill would impose an intergovernmental mandate on publicly owned pharmacies by requiring compliance with those sale and storage requirements. Because the preemption would not require states to take any action and because we expect that very few public pharmacies would be affected by the new requirements, CBO estimates that compliance costs would be insignificant and well below the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation).

State and local governments would benefit from grants that would be authorized to establish statewide programs to monitor the purchase of controlled substances used to produce methamphetamines and from a variety of programs related to substance abuse, education, and prevention. Any costs to those entities would be incurred voluntarily as a condition of receiving federal aid.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3889 would impose private-sector mandates, as defined in UMRA, on retail businesses and persons involved in the sale and distribution of certain medications containing ephedrine, pseudoephedrine or phenylpropanolamine. The bill would reclassify those drugs, which are found in many over-the-counter medications, as “scheduled listed chemical products”—a new category of chemicals under the Controlled Substances Act. The sale and distribution of products containing those substances would be regulated by the Controlled Substances Act, as amended by this bill. Based on information from industry and government sources, CBO estimates that the aggregate direct costs of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

Retail Businesses

The bill would impose private-sector mandates on retail businesses and persons involved in the sale and distribution of certain medications by restricting access to ephedrine, pseudoephedrine, and phenylpropanolamine products and imposing per-transaction and monthly limits on the amount of such products that can be sold per customer. Retail sellers would be required to verify the identification of individuals purchasing those products and maintain a written or electronic record of each sales transaction for not fewer than two years. The bill also would require sellers to submit to the Attorney General certification that certain employees involved in the delivery and direct sales of those products to consumers have undergone specific training.

Under H.R. 3889, certain retail establishments would have to move the location of pharmaceutical products containing those substances behind the counter or store them in locked cabinets, train employees to alert them to the new regulations, and implement new sales and hiring practices. Retail businesses might also reprogram software to signal or block transactions exceeding the threshold, although this would not be explicitly required. In addition, the bill would require sellers to take reasonable measures to guard against hiring people who may present a risk to the theft and diversion of scheduled listed chemical products. Finally, the bill would require sellers who ship (mail order or Internet sales) such medications to confirm the identity of a purchaser prior to shipping in accordance with procedures to be established by the Attorney General.

According to government and industry sources, at least 13 states have already enacted laws that place restrictions on such medications and many large retailers have voluntarily complied with the restrictions in this bill. In addition, similar products that do not contain those substances are readily available to be sold as an alternative or substitute. According to those industry sources, the costs associated with relocating a product, logging the sale, certification, retraining, and implementing new sales and hiring practices would be small. Therefore, CBO estimates that the direct cost to comply with those mandates would be small relative to UMRA's threshold for private-sector mandates.

Consumers

The bill would require individuals who purchase products containing ephedrine, pseudoephedrine, or phenylpropanolamine to provide photo identification and sign a written log of the transaction. In addition, consumers would be limited to 7.5 grams of such medicines that could be purchased within any 30-day period. CBO expects that the direct cost for individuals to comply with the mandate would be minimal.

Importers and Exporters

The bill also would impose a new mandate by expanding the current reporting requirements for certain importers and exporters of listed chemicals such as ephedrine, pseudoephedrine, or phenylpropanolamine. Currently, certain importers and exporters (those that are not regular importers or exporters as determined by the Department of Justice) must file an initial advance notice with the department 15 days before the shipment of such listed chemicals. Under the bill, if an original planned sale of such chemicals falls through, those importers and exporters must file a second advance notice with the department identifying the new purchaser 15 days prior to a new shipment. Finally, the bill would require importers to file a report with federal regulators listing complete information about the chain of distribution of imported chemicals. Based on information from government sources, CBO expects that the cost of complying with the mandate would be small.

PREVIOUS CBO ESTIMATE

On September 15, 2005, CBO transmitted a cost estimate for S. 103, the Combat Meth Act of 2005, as reported by the Senate Committee on the Judiciary on July 28, 2005. The two bills contain different provisions and the cost estimates reflect those differences. CBO estimated that implementing S. 103 would cost about $90 million over the 2006-2010 period, assuming appropriation of the necessary amounts. Enacting that bill also could affect direct spending, but we estimated that any net effects would not be significant in any year.

Both bills would impose similar mandates on individuals and persons involved in the sale and distribution of certain medications containing pseudoephedrine or ephedrine. S. 103 did not contain any mandates on the sale or distribution of phenylpropanolamine products or on importers or exporters. The aggregate direct cost of complying with the mandates in each bill would fall below the annual threshold established by UMRA for private-sector mandates.

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